

JS 44 (Rev. 11/15)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Appellation Pre-Fab, LLC

(b) County of Residence of First Listed Plaintiff Lycoming County
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
Charles J. Phillips, Esquire and Thad M. Gelsinger, Esquire
Leisawitz Heller, 2755 Century Boulevard, Wyomissing, PA 19610
610-372-3500

DEFENDANTS

Sheehan Pipeline Construction Company

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question
(U.S. Government Not a Party)
- ☒ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|---------------------------------------|---------------------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input checked="" type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

| CONTRACT | TORTS | TORT-FEEDBACK | BANKRUPTCY | OTHER STATUTES | |
|--|--|--|---|---|---|
| <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input checked="" type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise | PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice | PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions | <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 | <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes |
| REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property | CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education | PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement | | | |

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. Section 1332

Brief description of cause:
Defendant's breach of contract related to the fabrication of materials by Plaintiff

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

| | | |
|---|-------------|---------------------|
| APPELLATION PRE-FAB, LLC, Plaintiff | : : : | NO. |
| v. | : : : | |
| SHEEHAN PIPELINE CONSTRUCTION COMPANY Defendant | : : : | JURY TRIAL DEMANDED |

COMPLAINT

Jurisdiction and Venue

1. This Court has jurisdiction to hear this matter pursuant to 28 U.S.C. §1332, diversity of citizenship, because of the citizenship of the parties is diverse and the amount in controversy, including pendant claims, is in excess of \$75,000.00.

2. The Defendant, Sheehan Pipeline Construction Company (“Defendant”), is subject to the personal jurisdiction of the Commonwealth of Pennsylvania because it conducts substantial business therein.

3. Notably, Defendant conducts business in the Commonwealth of Pennsylvania on various construction projects including, but not limited to, the Trump Line conversion project (the “Project”) on which the goods and materials purchased from Plaintiff, Appellation Pre-Fab, LLC (“Plaintiff”) were utilized.

4. Venue is proper pursuant to 28 U.S.C. §1391(b)(2), as the events giving rise to this cause of action occurred in Lackawanna County, in the Middle District of Pennsylvania, and

5. The amount in controversy is in excess of \$150,000.00.

Parties

6. Plaintiff is a Pennsylvania limited liability company having a place of business located at 740 Fairfield Road, Montoursville, Lycoming County, Pennsylvania 17754.

7. Defendant is a foreign partnership organized and existing under the laws of the State of Oklahoma with offices located at 2431 East 61st Street, Suite 700, Tulsa, Oklahoma 74136-1234.

8. Plaintiff's claim consists, among other things, of allegations of breach of contract, unjust enrichment and quantum meruit for the costs of labor and materials, including but not limited to, the fabrication of six (6) thirty inch (30") test heads and the procurement of materials to fabricate the same (the "Labor and Materials") for the Project.

Count I - Breach of Contract

9. Paragraphs 1 through 8 are incorporated by reference as though more fully set forth herein.

10. Plaintiff furnished the Labor and Materials to Defendant pursuant to a written Proposal which was accepted by Defendant on September 15, 2015 (the "Agreement"). A true and correct copy of the Agreement is attached hereto, incorporated herein and marked as Exhibit "A".

11. Defendant agreed and accepted the Labor and Materials provided by Plaintiff, in accordance with the Agreement, without complaint.

12. Defendant owes Plaintiff an outstanding principal amount of Two Hundred Seven Thousand Ninety-Six Dollars and 00/100 Cents (\$207,096.00) (the "Amount Due").

13. Demand for payment of the Amount due has been made by the Plaintiff to the Defendant on several occasions.

14. In addition, Plaintiff's counsel has demanded payment and communicated said demand to the Defendant's counsel.

15. All payments made by Defendant to Plaintiff have been credited to Defendant's account.

16. The prices charged for the Labor and Materials are fair and reasonable prices, are the market price for the Labor and Materials provided, and furthermore represent the prices for the Labor and Materials Defendant agreed to pay Plaintiff.

17. Despite repeated requests and demand therefor, Defendant has failed and refused and continues to fail and refuse to pay the Amount Due and owing to Plaintiff.

18. As a direct and proximate result of Defendant's breach, Plaintiff sustained the aforesaid damages and was required to refer this matter to counsel for collection.

WHEREFORE, Plaintiff demands judgment against Defendant for the total principal amount of Two Hundred Seven Thousand Ninety-Six Dollars and 00/100 Cents (\$207,096.00) along with costs of suit and court costs to be determined at trial, plus post-judgment interest at the legal rate of six percent (6%), and any and all relief this Court deems necessary and just.

Count II – Unjust Enrichment (In the Alternative)

19. Plaintiff incorporates herein by reference Paragraphs 1 through 18 as though more fully set forth herein.

20. The Labor and Materials provided to Defendant by Plaintiff as referred to in Exhibit "A" were requested by Defendant who received and accepted the benefits of same.

21. At all times material hereto, Defendant was aware that Plaintiff was providing the various Labor and Materials to Defendant and that Plaintiff expected to be paid for the various Labor and Materials.

22. At all times material hereto, Defendant, with the aforesaid knowledge, permitted Plaintiff to provide Labor and Materials, and to incur damages.

23. At all times material hereto, Defendant was unjustly enriched by retaining the benefit of receiving the Labor and Materials without paying Plaintiff the fair and reasonable compensation therefor.

24. Defendant represented that it would compensate Plaintiff for providing the Labor and materials but has failed and refused to do so.

25. By reason of the aforesaid circumstances, Defendant is obligated to pay Plaintiff the value of the Labor and Materials in the amount of Two Hundred Seven Thousand Ninety-Six Dollars and 00/100 Cents (\$207,096.00).

WHEREFORE, Plaintiff demands judgment Defendant for the principal amount of Two Hundred Seven Thousand Ninety-Six dollars and 00/100 Cents (\$207.096.00), as a result of the Labor and Materials provided to Defendant plus costs of suit to be determined at the time of trial, along with post-judgment interest at the statutory rate of six percent (6%), and any and all relief this Court deems necessary and just.

Count III – Quantum Meruit (In the Alternative)

26. Plaintiff incorporates herein by reference Paragraphs 1 through 25 as though more fully set forth herein.

27. At Defendant's request, Plaintiff provided the Labor and Materials to Defendant.

28. The quantum meruit value of this Labor and Materials provided is Two Hundred Seven Thousand Ninety-Six Dollars and 00/100 Cents (\$207,096.00).

29. The Labor and Materials provided by Plaintiff was accepted and utilized by Defendant under such circumstances that Defendant knew that Plaintiff in providing the Labor

and Materials, expected to be paid by Defendant as Defendant profited from such Labor and Materials.

30. Although requested, Defendant has refused and continues to refuse to pay the outstanding balance of Two Hundred Seven Thousand Ninety-Six Dollars and 00/100 Cents (\$207,096.00), as a result of the Labor and Materials provided to Defendant, and this amount is owed to Plaintiff as the quantum meruit value of the Labor and Materials.

31. Defendant's failure to pay the aforesaid sum that is due and owing has caused Defendant to unjustly benefit from the Labor and Materials provided by Plaintiff.

WHEREFORE, Plaintiff demands judgment against Defendant for the principal amount of Two Hundred Seven Thousand Ninety-Six Dollars and 00/100 Cents (\$207,096.00), as a result of the various Labor and Materials provided to Defendant, plus court costs to be determined at the time of trial, along with post-judgment interest at the legal rate of six percent (6%).

Demand for Jury Trial

Plaintiff hereby demands a trial by jury on all issues so triable.

Respectfully submitted,

LEISAWITZ HELLER ABRAMOWITCH PHILLIPS, P.C.

DATED: 3/24/16

By:



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